
**DOUGLAS COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

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AUTHORITY: BOC
COUNTY MANAGER: SM
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SUBJECT: LEAVE OF ABSENCE

- I. PURPOSE:** To establish a policy for granting leave of absence time to County employees.
- II. POLICY:** A leave of absence may be granted to an employee due to extended personal or family illness or an uncontrollable or personal demand of the employee's time. The request for the leave should be approved prior to use. Family and/or Medical leave will not be denied by management per the regulations outlined in this policy.
 - A.** A leave of absence will be for an approved period of time, will generally start when an employee has been off work for 40 hours or 5 or more consecutive workdays (not including approved vacation/administrative leave time) and will be retroactive to the first day off whether an employee is using paid time off or not.
 - B.** An extension to a leave of absence may be granted for good cause upon the employee's request. The request for extension should be made at least 10 days prior to expiration of the approved leave (if possible), and required approvals must be obtained. Any special circumstances connected to an extension of a leave of absence will be considered individually and will require the approval of the department head/elected official.
 - C.** The specific types of leaves of absence that will be considered are as follows:
 - 1. Disability Leave.
 - 2. Family and/or Personal Medical Leave (FMLA).
 - 3. Work related accident/injury.
 - 4. Personal Leave.
 - 5. Military Leave
 - D.** An employee on an approved leave of absence will not lose seniority.

DISABILITY LEAVE:

- A.** Disability Leave: A disability leave of absence may be provided only for an employee who does not meet the eligibility requirements of FMLA leave and is unable to work because of a non-work related accident, injury or illness. An

employee must use any accrued sick leave on a disability leave of absence.

- B. Eligibility: A disability leave may be provided for an employee with less than 12 months of service, if approved by the department head/elected official. The probationary period will be extended for the amount of time the employee is off on disability leave. If, while on a disability leave, the employee meets the eligibility requirements for FMLA leave, the leave will be considered a FMLA leave effective on the date of eligibility.

FAMILY AND/OR PERSONAL MEDICAL LEAVE (FMLA):

- A. Family and/or Personal Medical Leave (FMLA): FMLA leave provides up to a total of 12 work weeks of leave during a 12 month period due to:
1. The birth, adoption or foster placement of a child and the care of such child;
 2. The need to care for an immediate family member with a serious health condition;
 3. The employee's own serious health condition which makes the employee unable to do his or her job;
 5. Due to a qualifying exigency arising when an employee's spouse, son, daughter, or parent is a military member on covered active duty or has been notified of an impending call to covered active duty. Exigency leave may be taken for:
 - a. Short-term notice deployment.
 - b. Military events and activities
 - c. Childcare and school activities
 - d. Financial and legal arrangements
 - e. Counseling
 - f. Rest and recuperation
 - g. Post-deployment activities
 - h. Additional activities arising out of active duty that the employer and employee agree upon.

Covered Active Duty means: In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country and in the case of a member of reserve component of the Armed Forces duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty.

- B. For purposes of this policy, the employee's immediate family is considered to be the spouse, child or parent. Each time an employee takes FMLA leave, the County will compute the amount of leave the employee has taken under the

FMLA policy and deduct it from the 12 workweeks of available leave. For purposes of a FMLA leave, the following definitions apply:

1. A son or daughter is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of person standing in loco parentis (in place of a parent). Persons who are in loco parentis include those with day-to-day responsibilities to care for and financially support a child.
 2. A spouse is defined as legal spouse in accordance with State law.
 3. A parent is an employee's biological parent or someone who stood in loco parentis to an employee.
 4. A serious health condition is defined as an illness or condition that involves an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.
- C. This FMLA policy covers illnesses of a serious and long-term nature resulting in recurring or lengthy absences.
1. With respect to an employee, the term "serious health condition" is intended to cover conditions or illnesses that affect the employee's health to the extent that he or she must receive continuing treatment by (or under the supervision of) a health care provider for a period of incapacity of more than three (3) consecutive full calendar days, combined with at least two (2) visitations to a health care provider, or (1) visit and a regimen of continuing treatment, (e.g., prescription medication);
 2. Treatment by a health care provider for any period of incapacity due to pregnancy or for prenatal care, or chronic condition (e.g. asthma, diabetes, epilepsy, etc.);
 3. Inpatient care in a hospital, hospice, or residential medical care facility;
 4. Treatment for:
 - a. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective (e.g. Alzheimer's disease, severe stroke, terminal cancer, etc.); or
 - b. Any period of absence to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g. chemotherapy, physical therapy for severe arthritis, etc.).

The condition need not be incapacitating at that point in time. Minor illnesses that last only a few days and surgical procedures that do not involve hospitalization and require only a brief recovery period do not qualify under FMLA leave.

Complications that arise out of these procedures may develop into a “serious health condition” that would qualify the employee for a FMLA leave.

- D. Military Caregiver:** Eligible employees can take up to 26 weeks of unpaid leave (which can run concurrent with paid leave) per year for qualifying military caregiver leave to care for a spouse, child, parent, or nearest blood relative who is a covered servicemember (to include the regular armed forces, National Guard, Reserves and those on specified retirement status, who has a serious injury or illness incurred in the line of duty. (This benefit is not limited to events occurring in combat or war zones activities). The 12-month period begins on the first day measured forward from the date an employee takes FMLA leave to care for the covered servicemember or veteran. This benefit may entitle the employee to more than one period of 26 weeks if the leave is identified to care for a different covered servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than 26 weeks of leave may be taken in any 12-month period. Employee cannot take more than a combined total of 26 weeks for military caregiver leave or any other FMLA qualifying reasons as listed above.

1. Eligible spouses employed by the same employer may be limited to a combined total of 12 weeks of FMLA leave used for:

- Birth and care of a newborn child; or
- Placement with the employee of a child for adoption or foster care.

Eligible spouses employed by the same employer are limited to a combined total of 26 weeks of FMLA for military caregiver leave. Days off and holidays do not affect the week determination; a holiday does not extend the week by an additional day.

2. Covered servicemember means:

- A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious illness or injury; or
- A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious illness or injury and who was a member of the Armed Forces (including National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

Voluntary or cosmetic treatments which are not medically necessary and do not involve in-patient care are not included. Routine preventative physical examinations are excluded as well. If there is any question about the definition of

“serious health condition” or about what illnesses are covered under this FMLA policy, the Human Resources Manager should be consulted.

- E. Eligibility: An employee will be entitled to FMLA leave if the following criteria are met:
1. The employee has worked for the County for at least 12 months. The twelve months need not have been consecutive.
 2. The employee has to have worked for the County for at least 1250 hours over the 12-month period before the leave would begin.
 3. Spouses who are both employed by the County are entitled to a combined total of 12 weeks of FMLA leave (rather than 12 weeks each) for the birth, adoption, or foster placement of a child, or for the care of a sick family member. This limitation does not apply to leave taken by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his/her own serious illness. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 work weeks of FMLA leave without the above-mentioned limitations.
 4. An employee's entitlement to FMLA leave for birth, adoption or foster placement of a child expires 12 months after the birth or placement.
 5. FMLA may be taken on an intermittent schedule. FMLA leave may also be taken on a reduced schedule if medically necessary for a serious health condition of the employee or family member, for the birth, adoption or foster care of a child, or use of the military leave entitlements. An “Intermittent leave” is leave taken in separate blocks of time rather than one continuous period of time. A “reduced hour schedule” is one that reduces the usual number of hours or days per workweek, or hours per workday for non-exempt staff.
- F. Sick Leave/ Vacation Leave/ Compensation Leave: Every employee on FMLA will be required to utilize accrued sick, vacation, administrative leave and compensation hours while on leave. Employees without accrued hours of sick leave may request annual or compensatory time be donated to them by employees. Employees may donate accumulated annual or compensatory leave hours to a specific employee who has requested additional leave time pursuant to Douglas County Administrative Policies and Procedures 200.37.
- G. Medical Certification: The County requires an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. In most cases, the employee should furnish medical certification at the time the leave is requested or in the case of an emergency, as soon as possible after the leave has

started. For normal requirements, an employee is expected to provide medical certification within 15 days of making application for a FMLA leave. If an employee fails to provide a medical certification within a reasonable time, the County may deny or delay the leave.

If an employee who has taken a leave on an emergency basis fails to supply the medical certification within a reasonable time period, continuation of leave may be denied. The County may require the employee to obtain a second opinion at the County's expense. If the opinions of the employee's and the County's designated health care providers differ, the County may require the employee to obtain certification from a third health care provider, again at the County's expense. This third opinion will be final and binding on both the County and the employee.

- H. Calculation of Leave: Eligible employees can use up to 12 weeks of leave during any 12-month period. Employees may not take more than a combined total of 12 weeks for all FMLA qualifying reasons listed above except "military caregiver" (see D above). The County will use a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the County computes the amount of leave the employee has taken under this policy, subtracts it from the 12 weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken 5 weeks of leave in the past 12 months, he or she could take an additional 7 weeks under this policy. Leave under "military caregiver (see D above) will be calculated using a 12-month period measured forward from the date the employees uses FMLA leave.
- I. Reinstatement Rights: While an employee is on a FMLA leave, the County will:
 - 1. Endeavor to hold the position open for the duration of the authorized leave. If the position has been filled, the employee will be placed in an equivalent position that includes the same working conditions, status and pay, and involves the same or substantially similar duties and responsibilities.
 - 2. If an employee fails to provide a fitness for duty certification to return to work, when applicable, the County may deny reinstatement until the employee submits the medical certification.
- J. Outside Employment: An employee may not accept other employment during a FMLA absence if the job conflicts with the reason the employee is on FMLA leave, i.e., an employee is on FMLA leave due to a back injury and accepts a job requiring heavy lifting.

WORK RELATED ACCIDENT/ INJURY LEAVE:

- A. Definition: A work related accident or injury leave of absence may be provided for an employee who has experienced an accident or injury while working and must be absent from work as a result. Such leaves will be considered FMLA leave if the employee qualifies under the above-mentioned eligibility requirements.
- B. Eligibility: All employees are eligible.
- C. Sick Leave/Vacation: An employee may elect to use accrued sick leave during the brief waiting period until wage payments under Worker's Compensation begin. The employee also has the option of requesting annual or compensatory time be donated to them by employees if no accrued sick leave is available. Employees may donate accumulated annual or compensatory leave hours to a specific employee who has requested additional leave time pursuant to Douglas County Administrative Policies and Procedures 200.37.
- D. Refer to the work related injury policy for specific regulations and procedures.

PERSONAL LEAVE:

- A. Definition: A personal leave of absence may be granted to an employee in extenuating circumstances. Requests will be reviewed and approved or disapproved on a case-by-case basis. Personal Leave requests must be fully approved by the County Manager, Fire Chief or the applicable Elected Official or Town Board in writing 30 days prior to beginning.
- B. Eligibility: Employees are eligible for this type of leave if they have completed at least one year of consecutive service with the County.
- C. Sick Leave/Vacation: An employee will not be permitted to use accrued sick leave while on a Personal Leave. The employee must use any accrued vacation or administrative leave while on a Personal Leave.
- D. Reinstatement Rights: While an employee is on a Personal Leave of absence, the County will:
 - 1. Endeavor to hold the position open for the duration of the approved leave when feasible, but cannot guarantee this if circumstances require that the position be filled.
 - 2. If the position is filled, consideration will be given the employee, upon return, for the next available opening for which the employee qualifies.

MILITARY LEAVE:

An employee who is an active member of the National Guard or reserve component of the

United States Armed Forces must notify the County of their active status upon their hire date or immediately upon activation. An employee who is an active member of the National Guard or any reserve component of the United States Armed Forces will, upon request, be relieved from his or her duties to serve orders for military duty, without loss of pay or accrued leave for a period not to exceed fifteen workdays in any calendar year. The duration of the workday will be dependent upon the orders received, and the employee's ability to return to work. The employee must make their reserve status known to the County yearly and must provide any known reserve obligations to those responsible for staffing a minimum of 30-days in advance except during times of military conflict or other emergency activations.

COMMUNICATIONS DURING LEAVE:

- A. While an employee is on FMLA leave, there will be no loss of benefits during the maximum allowable period (12 work weeks). The County will maintain the employee's medical, dental, vision and life insurance coverage at the same level and under the same conditions that coverage would have been provided if the employee had continued in the position.
- B. Arrangements regarding employee's payment of dependent medical/dental/vision premiums or other voluntary deductions, if continuity is desired, must be made with the Human Resources Manager prior to starting a leave of absence. While on paid leave, the County will continue to make payroll deductions to collect the employee's regular share of any premiums. While on unpaid leave the employee must continue to make this payment, either in person or by mail. If the payment is more than 30 days late, the employee's dependent coverage and voluntary deductions may be dropped for the duration of the leave.

If the employee fails to return from leave, the County may generally recover the premium that the employer paid for maintaining coverage during the period.

- C. While an employee is on a Personal or Disability Leave of absence, there will be no loss of benefits if the leave does not exceed one calendar month. Otherwise, the employee will not receive benefits during a Leave Without Pay, Personal or Disability leave of absence period. If leave period is to exceed one calendar month, arrangements regarding employee's payment of group medical/dental/vision/ life insurance as well as other voluntary deductions, if continuity is desired, must be made with the Human Resources Manager prior to starting leave of absence as provided in Paragraph (A).

NOTICE REQUIREMENTS:

- A. The employee is expected to give the County 30 days advance notice when applying for a leave of absence, with the exception of FMLA, and Worker's

Compensation leave, which requires reasonable and practical advance notice. When planning medical treatment, the employee should consult with his/her manager and make a reasonable effort to schedule the leave so as not to disrupt the department's operations. Employees are expected to give the County 30 days advance notice of a Disability Leave request, if practical, and no later than 48 hours of starting leave in an emergency situation.

III. PROCEDURES:

- A. **NOTICE FROM EMPLOYEE FOR LEAVE REQUEST:** Whenever possible, leaves of absence should be fully arranged and approved prior to beginning the time off. Personal Leave requests **MUST** be fully approved in writing prior to beginning. FMLA leave will be granted in accordance with this policy. Worker's Compensation leaves will follow the procedure outlined in that policy.
1. **Employee Responsibility:** Medical certification must be provided to support a claim for leave for the employee's own serious health condition or to care for a seriously ill family member. The County's FMLA form should be utilized for such leave to assist employees and their physician or practitioner with the certification process. If the leave is due to an adoption or placement or birth of a child, the employee must provide a copy of the adoption or placement papers or birth certificate to the Human Resources Division. Personal leave of absence requests should be written to the employees' supervisor, and approved in writing prior to beginning the leave.
 2. **Supervisor/Manager/Department Head/Elected Official:** Review request and approve or disapprove considering urgency of need, length of service, and the effect the absence will have on the department's operation. Eligible FMLA leave requests may not be denied. Forward documents to the Human Resources Manager.
- B. **ACTIVATION OF LEAVE OF ABSENCE:**
1. Prior to starting a leave of absence, the employee should meet with the Human Resources Division to review the policies and procedures related to said leave.
 2. Arrangements regarding employee's payment of premiums and deductions, if continuity is desired during leave, must be made in advance of unpaid leave.
 3. All employees on leave of absence are expected to report any change of status in their need for a leave or their intention to return to work to the Human Resources Division. For medical related leaves, a physician's release must be obtained.
 4. Failure to return to work on or before the approved leave expiration date will be considered a resignation unless a prior extension of the leave has been approved.

5. All approved and designated FMLA leaves will include notice to the employee in writing by the Human Resources Division.

COMMUNICATIONS DURING LEAVE:

- A. The County may request medical re-certification for any of the following reasons:
 1. The employee requests a leave extension.
 2. Circumstances described by the original certification have changed significantly.
 3. The County receives information that raises issues as to the continuing validity of the certification.
- B. If at any point during the leave period the employee advises the County that the employee does not intend to return to work, the employment relationship is deemed terminated, and the employee's entitlement to reinstatement, continued leave, and health benefits ceases.

- IV. RESPONSIBILITY FOR REVIEW:** The Human Resources Manager will review this policy as needed or at least once every 5 years.

01/05/2012